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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,994	09/29/2003	Hikari Kawata	121027-200	2814

35684 7590 10/31/2006

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ANN ARBOR, MI 48104

EXAMINER
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REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/673,994	KAWATA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Karin M. Reichle	3761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8-21-06 has been entered.

### ***Response to Amendment***

2. The amendments to abstract filed 8-21-06 have not been entered since they do not comply with 37 CFR 1.121, i.e. the marked up amendments to the abstract have not be presented in a separate section and the copy of the abstract presented on a separate page is not a clean copy. Therefore this action is based on the originally filed application as amended 8-21-06, the claims as filed 8-21-06 and the original abstract.

### ***Specification***

#### ***Description***

3. The abstract of the disclosure is objected to because terminology which can be inferred, i.e. "Here is disclosed", and legal terminology, i.e. "comprises", should be avoided. Also, lines 3-5, as counted, appear to be missing a word or words. Correction is required. See MPEP § 608.01(b).

4. The disclosure is objected to because of the following informalities: in the first sentence of the paragraph bridging pages 6-7, "2", second occurrence, should be --6--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. Claims 10-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. New claims 10-17 now require a plurality of ribbon-like strips having distal end portions that are separated from one another by slits formed between adjacent ones of the strips and a sheet connecting region which extends beyond the proximal terminal ends of such slits formed between adjacent ones of the strips. Applicant relies on Figure 3 for support of such claim language. See Claim Language Interpretation section *infra*. While Figure 3 shows the plurality of ribbon-like strips having distal end portions that are separate or divided from one another and proximal ends monolithically formed with the sheet connecting region, where does Figure 3 or any other portion of the original application disclose that the separation is due to forming slits, i.e. cutting? If Applicant maintains such claim language, the portion of the original application relied upon for teaching the separation of the strips by "slit" forming in combination with the features of each of claims in a single embodiment should be set forth.

6. Claims 1-8 and 10-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. In claim 1, a positive structural antecedent basis for “said absorbent inner surface”, last sentence on page 5 of the response, should be set forth. Again, with regard to claims 1, 7 and 8, it is unclear whether Applicant is claiming the absorbent article, see, e.g., claims 7 and 8, and an attachment therebetween or not, see, e.g., the preamble of claim 1 and the last section thereof? How can the article of claim 1 be “attachable” if it is “attached”? The rejections of claims 1 and 7-8 also apply to similar language of claims 10 and 16-17.

### ***Claim Language Interpretation***

7. Due to the lack of clarity set forth supra and to interpret the claim to be consistent alone or in combination with any claims depending therefrom, claim 1 is interpreted to include, at a minimum, a guide which may be used with an article having an inner surface and the capability of attachment onto such surface as set forth on lines 11-14 of claim 1 when used therewith, and the capability, function or properties of the last two lines of the claim. “Attach”, “connect”, “join” and derivatives thereof are interpreted still according to their usual meaning, i.e. can be direct or indirect. It is noted that the claims do not require the capability of attachment to the innermost surface of the article. Claim 2 is interpreted as setting forth function, capabilities or properties of the strips. Claims 7-8, lines 2-3, are interpreted as setting forth function, capabilities or properties of the adhesive which is claimed. In claims 7-8, due to lack of clarity set forth supra, lines 2-3 are considered to encompass either use with, i.e. capability, or combination with an absorbent article. With regard to claims 10-17, “Slit” as defined by the dictionary is “a long narrow cut, tear or opening; to make a long narrow incision in; to cut lengthwise into strips; split”. Therefore these claims are considered to require forming of slits,

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i.e. are product by process claims, see MPEP 2113, i.e. “[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.”

The end product of claims 10-17 is deemed to be monolithically formed strips and sheet-like connecting region.

***Claim Rejections - 35 USC § 102***

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 1-5 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Gibbins ‘174.

In regard to claims 1-2, see discussion in paragraphs supra, especially the Claim Language Interpretation section supra, and Gibbins ‘174 at the Figures and col. 2, lines 1-3, col. 3, lines 19-30, col. 5, lines 19-23, col. 6, lines 6-9 and col. 8, lines 23-52, especially note line 28, i.e. “urine”, i.e. ‘174 teaches a urine control and management structure 10 having longitudinal and transverse directions and includes a sheet-like connecting region 30 and a plurality of ribbon like (i.e. ribbon” as defined by the dictionary is “a narrow strip or band” and narrow is considered relative absent claiming of specific dimension thereof) strips 20 having a thickness, having or arranged in longitudinal and transverse dimensions or directions, distal end portions 40, and proximal end portions adjacent 30. The proximal end portions are interconnected

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directly or indirectly to one another by the sheet like connecting portion but the distal end portions are not directly connected to one another so that the strips are only interconnected to one another at their proximal end portions. The sheet like region is attachable onto an inner surface of a body fluid absorbent structure, e.g. a secondary wound dressing such as a pad and/or another similar urine control and management structure, see cited portions of '174. Applicant further claims the structure guiding urine discharged on the strips thereof from the proximal end portions to the distal end portions and the connecting region being attachable to the article so that the strips lie on the inner surface thereof in the longitudinal direction, claim 1, and that the strips spread an amount of urine in the longitudinal direction while preventing the spread of urine in the transverse direction in use, claim 2, i.e. functions, properties or capabilities of the claimed structure. At the very least, the '174 device includes all such claimed structure. Therefore, there is sufficient factual evidence for one to conclude that such same structure would also inherently have the same functions, properties and/or capabilities, see MPEP 2112.01.

Claim 3: See col. 5, lines 3-6, for example, and thereby, by incorporation, '190 at col. 5, lines 9-22, e.g. a net of material ("net" as defined by the dictionary is "an openwork fabric made of threads, cords or ropes that are woven or knotted together at regular intervals"), i.e. a fibrous assembly with oriented component fibers. Since claim 3 does not set forth what structure of the fibers is oriented in the longitudinal direction (i.e. the longitudinal axis? The diameter?), the components fibers of the prior art are considered to be oriented in the longitudinal direction since some portion of their structure is oriented in such direction.

Claims 4-5: See col. 5, lines 3-6 and thereby, by incorporation, '190 at col 3, lines 45-47 and col. 5, lines 9-32 and '174 at col. 5, lines 7-11, col. 6, lines 6-8 and col. 6, line 60-col. 7, line

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8, i.e. either the strands 20 are the fibers (i.e. “fiber” as defined by the dictionary is “a slender, elongated structure” and each of the strands 20 are a slender, elongated structure) or include fibers, e.g. a net of material as discussed with respect to claim 3, and such are made out of absorbent, i.e. hydrophilic, and/or nonabsorbent, i.e. hydrophobic, materials.

Claims 10-14: See the Claim Language Interpretation section supra and the discussion of claims 1-2 and the paragraph bridging cols. 5-6, i.e. strips are formed by cutting, i.e. slits are formed between the strips, i.e. not only the end product but also the process as claimed.

10. Claims 1-3, 6-8, 10-12, and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by The Proctor and Gamble Company, EP ‘817, hereinafter referred to as P&G ‘817 or ‘817.

In regard to claims 1-2, see discussion in paragraphs supra, especially the Claim Language Interpretation section supra, and ‘817 at the Figures and col. 1, first full paragraph col. 5, first full paragraph, especially note line 16, i.e. “urine”, col. 6, lines 30-40, col. 9, lines 7-44, col. 10, lines 37 et seq, col. 11, lines 12-46, col. 12, lines 9-15, 24-35, especially 30-31, the paragraph bridging cols. 12-13, col. 13, lines 29-41, col. 14, lines 40-46, col. 15, lines 4-28, and thereby, by incorporation, EP ‘916, i.e. EP 96106724.6, at page 6, line 15-page 7, line 55, and ‘817 at col. 20, lines 23-30, i.e. ‘817 teaches a urine transfer structure, e.g., 46 having longitudinal and transverse directions and includes a sheet-like connecting region 54 or the uncut thickness of layer 46 and a plurality of ribbon like (i.e. ribbon” as defined by the dictionary is “a narrow strip or band” and narrow is considered relative absent claiming of specific dimension thereof) strips having a thickness, having or arranged in longitudinal and transverse dimensions or directions, distal end portions remote from 44, and proximal end portions adjacent 44. The



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proximal end portions are interconnected directly or indirectly to one another by the sheet like connecting portion but the distal end portions are not directly connected to one another so that the strips are only interconnected to one another at their proximal end portions. The sheet like region is attachable onto an inner surface of a body fluid absorbent structure, e.g. 44, see col. 6, lines 30-38 or col. 12, lines 29-31. It is noted that the claim do not require direct attachability to the innermost surface of the article. Applicant further claims the structure guiding urine discharged on the strips thereof from the proximal end portions to the distal end portions and the connecting region being attachable to the article so that the strips lie on the inner surface thereof in the longitudinal direction, claim 1, and that the strips spread an amount of urine in the longitudinal direction while preventing the spread of urine in the transverse direction in use, i.e. functions, properties or capabilities of the claimed structure. See again the cited portions of '817. It is the Examiner's first position that '817 teaches such explicitly in the cited portions. In any case, i.e. the Examiner's second position, at the very least, the '817 device includes all such claimed structure. Therefore, there is sufficient factual evidence for one to conclude that such same structure would also inherently have the same functions, properties and/or capabilities, see MPEP 2112.01.

Claim 3: See col. 15, line 28, for example, i.e. a fibrous assembly with oriented component fibers. Since claim 3 does not set forth what structure of the fibers is oriented in the longitudinal direction (i.e. the longitudinal axis? The diameter?), the components fibers of the prior art are considered to be oriented in the longitudinal direction since some portion of their structure is oriented in such direction.

Claim 6: See the portions of '817 cited supra, especially col. 6, lines 30-38 and col. 9, lines 7-44, i.e. the surface of the connecting region of the structure 46 is directly or indirectly coated with an adhesive.

Claim 7: See the Claim Language Interpretation section supra and the discussion of claim 6, e.g. the adhesive disclosed by '817 can be a permanent adhesive attaching the structure 46 directly or indirectly to an inner surface of a body fluid absorbent article, e.g. the structure 44.

Claim 8: See the Claim Language Interpretation section, supra, and the discussion of claims 6-7, i.e. the '817 reference teaches an adhesive capable of detachably attaching to an undergarment and therefore, at the very least, there is sufficient factual evidence for one to conclude that such adhesive is also inherently capable of so attaching to the inner surface of a body fluid absorbent wearing article, see MPEP 2112.01: See also the Prior Art citation section infra.

Claims 10-12 and 15-17: See discussion of claims 1-2 and 6-8 and the first full paragraph of '817 and thereby the cited portions of '916, i.e. strips are formed by cutting or incision, i.e. slits are formed between the strips, i.e. not only the end product but also the process as claimed.

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 6, 8, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbins' 174 in view of Korteweg '966.

Claim 6 requires the connecting region being coated, i.e. includes directly or indirectly, one surface thereof with an adhesive. While '174 discloses that the article is placed in or near the wound and secured alone or with other similarly designed articles into position with any suitable secondary wound dressing such as a tape (i.e. "tape" as defined by the dictionary includes "adhesive tape"), it does not disclose such coats a surface of the connecting region. However, see, e.g., Korteweg '966 at the Figures and col. 2, lines 15-28 which show adhesive tape attached, i.e. coating, a connecting region of a drainage device with spreadable elements or strands. Therefore, to employ the securing tape of '174 such that it coats the surface of the connecting region during securement such as, for example, taught by '966 would be obvious to one of ordinary skill in the art in view of the recognition that such would enable securement of the device while still allowing movement of the strands and the desirability of both by '174.

Claim 8: See Claim Language Interpretation section supra. The prior art combination as discussed in claim 6 includes an adhesive which is, at the very least, capable of detachably attaching to one of an inner surface of a body fluid absorbent article, e.g. another similarly designed article placed in combination therewith, and/or the body of a wearer, see '174 at col. 8, lines 40-57.

Claims 15 and 17: See discussion of claim 6 and 8 supra.

13. Claims 4-5 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over P&G '817 in view of Gibbins '174.

Claims 4-5: See the portions of '817 cited supra. Claims 4 and 5 require the strip comprise hydrophobic fibers or hydrophobic and hydrophilic fibers whereas '817 only discloses reinforcing fibers or the strips themselves being hydrophilic sponge and such fibers but capable of comprising any material capable of swelling. See the discussion of the teachings of Gibbins '174, especially with respect to claims 4-5 and, e.g., the sentence bridging cols. 7-8 thereof. To make the reinforcing fibers or the strips themselves of '817 of hydrophobic fibers or hydrophobic and hydrophilic fibers as taught by '174 would be obvious, see *In re Siebentritt*, 54 CCPA 1083, (i.e. two equivalents are interchangeable for their desired function, express suggestion of desirability of substitution not needed to render such substitution obvious). In the instant case, the equivalents are the materials for making reinforcing fibers and/or swellable matrices.

### ***Response to Arguments***

14. Applicant's remarks have been carefully considered but are deemed moot in that the issue discussed has not been reraised or are deemed not persuasive.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other cited but not applied references also teach body fluid transfer members having at least some of the claimed/disclosed features. It is noted that even if claims 1 and 8 are amended to clearly recite an apparatus which is the combination of a body fluid absorbent article and a urine guiding article, the combination of '817, see, e.g., the portion of col. 20 cited and Ahr '585, see, e.g., col. 12, lines 8-12, would appear to teach the obviousness of such actual


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combination, i.e. the combination of two absorbent articles together. Attention is also invited to Dabi et al, already of record, at col. 3, lines 50-51. See the newly cited Osborn '905 reference at the Figures.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Karin M. Reichle  
Primary Examiner  
Art Unit 3761

KMR  
October 25, 2006